

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6317**

**BILL NUMBER:** SB 343

**NOTE PREPARED:** Jan 2, 2011

**BILL AMENDED:**

**SUBJECT:** Health Facility Employee Criminal Background Checks.

**FIRST AUTHOR:** Sen. Randolph

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill requires a health facility to obtain a national criminal history background check or an expanded criminal history check. The bill provides immunity to persons: (1) for denying or terminating employment because of another person's criminal history; or (2) for reporting to or participating in the proceedings of the Indiana State Department of Health (ISDH) or the Registry of Nurse Aides.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** This bill will increase the workload of the Indiana State Police (ISP) to process additional national criminal history background checks. Increases in workload will be financed from fees received for processing these background checks.

**Explanation of State Revenues:** *Summary:* This bill will increase revenue from (1) fees for national criminal history background checks, (2) fines collected from Class A infractions, and (3) fines collected from Class A misdemeanors.

**Additional Information:**

National Criminal History Background Check: A national criminal history background check requires a search of the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification. A national criminal history background check is obtained through the ISP. For every national criminal history background check performed in the state, \$15 is forwarded to the General Fund.

**Expanded Criminal History Background Check:** An expanded criminal history check includes a search of: (1) all the records maintained by all counties in Indiana and (2) the records maintained by all counties or similar government units in another state if the individual resided in another state. No revenue is forwarded to the state for expanded criminal history background checks.

*Revenue From Criminal Background Checks:* This bill requires health facility operators to make a request for either the (1) expanded criminal history information or (2) national criminal history information, for employees within 3 days of having contact with patients. Additionally, a health facility operator is required to receive the criminal history information within 21 calendar days of an employee's contact with patients (unless the failure is the result of the criminal history information issuing authority). Currently, health facility employees are not required to obtain criminal history information.

A search of an Internet database revealed there are 5,242 health care facilities in the state of Indiana that employ an estimated 229,633 employees.

The requirements of the bill will only apply to *new* health facility employees who will have direct contact with patients. The currently estimated 229,633 employees will not be required to obtain either an expanded or national criminal history background check. It should be noted that this number will account for all employees, not just those who have contact with patients. In reality, the actual number of health facility workers would be required to obtain either an expanded or national criminal history background check would be less than this assumed number.

Assuming at least 10% of the currently existing health facility workforce represents annual new hires, approximately 23,000 individuals will be required to obtain either an expanded or a national criminal history background check. Assuming 50% of this population requests a national criminal history background check, revenue to the General Fund will increase by approximately \$172,500 per year.

The bill specifies criminal convictions which are disqualifying for employment in a health facility if they are found in an individual's criminal history background information. These provisions will apply to all criminal history background information requests made for newly hired and current employees at a health facility. The bill only requires health facility operators to obtain the criminal history information of newly hired health facility employees, but there is the possibility that health facility operators may request the criminal history information of current employees who are suspected of maintaining (or learned to have) a disqualifying criminal conviction. To the extent health care facility operators voluntarily request the criminal history information of current employees, state revenue will increase.

Actual increases in state revenue will ultimately depend on (1) any price difference between an expanded criminal history background check and a national criminal history background check and (2) if one method to request criminal history information is more accessible than another. It is assumed that if one type of criminal history background check is less expensive than another, the cheapest alternative will be selected by the requestor. Additionally, if one method to request criminal history information is easier to access, or requires less time than another, it is assumed that a more accessible method may also be preferred to the other. Any impact these factors may have on requests for national criminal history information and state revenue is indeterminable.

*Penalty Provisions:* Current employees who are found by health facility operators to have a disqualifying criminal offense under the provisions of the bill must be terminated or the operator will face a Class A

infraction. To the extent a health care operator knows of a disqualifying criminal conviction of an employee and allows their continued contact with patients, revenue from Class A infractions will increase.

Health facility operators who do not request and receive the requisite criminal history information for their new employees within time frames established in the bill commit a Class A infraction. The maximum judgment for a Class A infraction is \$10,000, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

Additionally, health facility operators may also not operate a health care facility if they have been convicted of the following criminal offenses as defined in Indiana Code: (1) rape, (2) criminal deviate conduct, (3) exploitation of an endangered adult, (4) failure to report battery, neglect, or exploitation of an endangered adult, and theft (if the conviction is within the past 10 years). Knowingly or intentionally violating this requirement is a Class A misdemeanor. [Note: The bill is silent on whether the same criminal penalties apply to a health facility operator who committed a similar crime in another state.]

If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

**Explanation of Local Expenditures:** *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** ISP.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana State Police, <http://www.allbusiness.com>.

**Fiscal Analyst:** Bill Brumbach, 232-9559